IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE THIRD DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE GODA RAGHURAM

WRIT PETITION NO : 16399 of 1996

Between:

1 Sub Division Officer, Telecommunications, Dharmavaram-515872.
2 District Manager, telecom, Anantapur-515001.

..... PETITIONERS

AND

1 P.Gangappa, S/o Ramanna, C/o Sri C.Suryanarayana, Advocate, 1-2-593/50, Srinilayam, Sri Sri Marg gagan Mahal, Hyderabad.
2 The Chairman, Industrial Tribunal (Central), Chandra Vihar Buildings, Nampally, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ or order or directions more particularly one in the nature of Mandamus and to declare the Award dt.15-3-95 in I.D No.2 of 1993 on the file of the Industrial Tribunal (Central) Hyderabad, as being, illegal, null and void.

Counsel for the Petitioner: MR.R.S.MURTHY

Counsel for the Respondent No.1: MR.G.SURYANARAYANA

The Court made the following:

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ORAL ORDER:

The Sub Divisional officer Tele-communications and the District Manager, Telecom of Dharmavaram and Anantapur, respectively have instituted this Writ petition challenging the award dated 15-3-1995 of the Industrial Tribunal (Central) Hyderabad, in I.D.No.2 of 1993.

The respondent-workmen challenged his termination as being contrary to the provisions of the Section 25-F of the Industrial Disputes Act, 1947 (the Act). The Government of India (the appropriate Government) by an order dated 4-10-1991 referred the dispute as to whether the termination of the service of the respondent herein without complying with the provisions of the Section 25-F of the Act was justified.

The claim of the workman was that he was recruited and employed as a casual mazdoor and was in continuous employment for a period of 311 days during February, 1989 to October 1989, and was in service for more than 240 days in the preceding 12 calendar months. He was verbally terminated from service with effect from 1-1-1990 and without complying with the mandatory provisions of Section 25-F

of the Act.

The writ petitioners neither filed a counter affidavit nor did they adduce any oral or documentary evidence in the Labour Court.

On behalf of the workman, he examined himself as a witness WW-1 and also marked the relevant documents. He substantiated his claim both by its own testimony and also the documentary evidence. Ex.W-1 was the Muster Roll maintained for his service. From a perusal of the award it is apparent that there was no argument either advanced on behalf of the writ petitioners. The Labour Court on the basis of the evidence on record and in the absence of any evidence in rebuttal on behalf of the writ petitioners, came to the rational conclusion that the respondent herein was entitled to the benefits of the provisions of Section 25-F of the Act, his oral termination from service with effect from 1-1-1990 was without complying with the provisions of Section 25-F, that the termination was invalid and the respondent herein was entitled to the consequential benefits on such conclusion as to the violation of the provisions of Section 25-F. However, on noticing that there was a delay between the date of termination and the making of the reference, the Labour Court limited the benefits to back wages from the date of the making of the reference i.e., 18-1-1983 and while declaring the respondent's retrenchment as illegal, directed reinstatement into service and entitlement to back wages with continuity of service from 18-1-1993. The writ petitioners were also directed to pay the difference of wages to the respondent herein on the basis of minimum pay in the pay scales of regularly employed workers in the cadre and that the actual wages the respondent herein had received for the period he worked with the respondent from February, 1989 to December, 1989 should be determined accordingly. The writ petitioners were also directed to pay the arrears payable to the respondent herein, within a period of six months from the date of the award, failing which the arrears amount would carry interest at 12% p.a.

This Court find no infirmity in the application of law, in the exercise of discretion or appreciation of evidence, oral and documentary by the Court below, warranting interference in this writ petition. The writ is misconceived and is accordingly, dismissed. The petitioner shall be entitled to all the benefits under the award including to interest on the arrears amount, payable in accordance with the award.

3-08-2004

es/pvsn

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Chairman, Industrial Tribunal (Central), Chandra Vihar Buildings, Nampally, Hyderabad.

2. Two CD copies.